

McGREGOR W. SCOTT
United States Attorney
KENDALL J. NEWMAN
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, California 95814
Telephone: (916) 554-2799

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN G. CORN and RUTH S. CORN,)
Plaintiffs,)
v.)
UNITED STATES OF AMERICA,)
Defendant.)

CIV-S-03-2122 MCE DAD

**DEFENDANT'S EX PARTE
APPLICATION FOR LEAVE TO
FILE MOTION FOR SUMMARY
ADJUDICATION OF ISSUES OR, IN
THE ALTERNATIVE, IN LIMINE
AND PROPOSED ORDER
THEREON**

This Court's Pretrial (Status) Scheduling Order filed February 10, 2004, set February 15, 2004, as the deadline for the parties' expert disclosures and reports in this case. Court Docket #13. The Order also set April 15, 2005, as the deadline for the parties to file any dispositive motions. Id.

Defendant designated its expert witness on February 15, 2005, along with the documentation required by Rule 26. Court Docket #14.

On February 15, 2005, plaintiffs submitted an ex parte application for an extension of time to file their disclosure of expert witnesses. Court Docket #15.

On February 17, 2005, the Court granted plaintiffs' request for an extension to designate experts until March 15, 2005. Court Docket #16. This Court's Order, however,

///

1 did not address how the plaintiffs' later designation of expert witnesses would affect the
2 date for filing dispositive motions.

3 On March 15, 2005, Plaintiffs submitted their disclosure of expert witnesses.
4 Court Docket #18. Government's counsel deposed plaintiffs' economist expert on April
5 4, 2005. On April 21, 2005, government counsel deposed plaintiffs' expert real estate
6 appraiser, Mark Rasmussen.

7 Defendant hereby seeks leave to file its Motion for Summary Adjudication of
8 Issues or, in the Alternative, In Limine. The motion is based upon plaintiffs' designation
9 of expert witnesses and the information obtained from the depositions of plaintiffs'
10 retained experts. Accordingly, defendant could not have filed this motion until it had
11 obtained that information.

12 Defendant's counsel believes that the resolution of defendant's motion will greatly
13 increase the likelihood of resolving this case before trial or, at a minimum, reduce the
14 evidentiary issues and length of the trial.

15 Plaintiffs' counsel has informed defendant's counsel that he does not oppose this
16 ex parte application.

17
18 DATED: May 10, 2005

McGREGOR W. SCOTT
United States Attorney

19
20 /s/Kendall J. Newman
KENDALL J. NEWMAN
21 Assistant U.S. Attorney
22 Attorneys for Defendant

23 ///

24 ///

25 ///

26 ///

27 ///

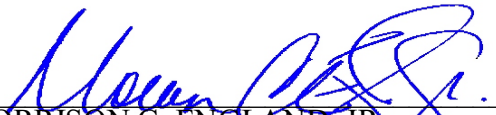
28 ///

ORDER

Upon reading the forgoing Application of Defendant for Leave to File its Motion for Summary Adjudication of Issues or, in the Alternative, In Limine, and good cause appearing therefor,

IT IS HEREBY ORDERED that defendant's application for leave to file its Motion for Summary Adjudication of Issues is granted. Said motion is to be filed by defendant not later than May 31, 2005, opposition is to be filed not later than June 7, 2005 and any reply is to be filed not later than July 10, 2005. The hearing on the motion is scheduled for June 20, 2005, at 9:00 a.m.

Dated: May 12, 2005


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE